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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,368	11/29/2000	Gregory J. Gagnon	PD-990271	5293

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PATENT DOCKET ADMINISTRATION RE/R11/A109  
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EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/726,368

Applicant(s)

GAGNON ET AL.

Examiner

Forest Thompson Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-45 have been examined.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4-17, 19-32, 34-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Nel (U.S. Patent no. 6,363,364).

Claims 1, 16, 31: Nel discloses:

- activating, in a receiver connected to a presentation device, a purchase screen having at least one field (col. 2 line 66 – col. 4 line 23),
- receive broadcast signals through an input mechanism (col. 3 lines 3-11); and
- enable the presentation device to display the broadcast signals (col. 3 lines 3-11);
- the activation enabling the purchase screen to be displayed on the presentation device (col. 2 line 66 – col. 4 line 23);
- receiving purchase information in the at least one field into the receiver from a user (col. 4 lines 16-23);

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- establishing a secure electronic connection, using a communication mechanism of the receiver that is different from the input mechanism, with a vendor (col. 3 lines 41-57);
- electronically transmitting the purchase information from the receiver through the secure electronic connection to the vendor (col. 3 lines 41-51; col. 4 lines 4-15); and
- receiving a confirmation number from the vendor into the receiver (col. 3 lines 52-57).

Claims 2, 17, 32: Nel discloses the activation is received from a user using a remote control (col. 6 line 42 – col. 7 line 24).

Claims 4, 19, 34: Nel discloses the purchase information comprises merchandise information for merchandise to be purchased from the vendor (col. 6 line 42 – col. 7 line 24).

Claims 5, 20, 35: Nel discloses the purchase information comprises service information for a service to be purchased from the vendor (col. 6 line 42 – col. 7 line 24).

Claims 6, 21, 36: Nel discloses the service is for television programming (col. 5 line 48 – col. 6 line 38).

Claims 7, 22, 37: Nel discloses the service is for an activation of a television programming package (col. 5 line 48 – col. 6 line 38).

Claims 8, 23, 38: Nel discloses receiving, in the receiver, authorization for the service from the vendor, and configuring the receiver to allow the display of the authorized services (col. 3 line 3 – col. 4 line 55).

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Claims 9, 24, 39: Nel discloses verifying that all of the required purchase information has been received (col. 3 lines 52-57).

Claims 10, 25, 40: Nel discloses:

- obtaining a dialtone through a modem connected to the receiver; and dialing a phone number corresponding to the vendor selected, wherein the phone number is stored in the receiver (col. 5 lines 57-67), as taught in the disclosure *Selections are communicated to a computer network of a vendor through the decoder 120 via a telephone network that may include the use of a modem or via RF signals by means of a receiver and transmitter 125 and 129 at user base and at the broadcaster or via bi-directional satellite 127 communication through a satellite dish at user base 126. Alternatively a normal phone 130 or a cellular phone 131 or satellite phone may link to an IVR (Interactive voice response system) 132 which may serve as a frontend to communicate user selections or inputs to the computer network of said vendor computer network 134.*
- establishing a secure connection with a computer system of the vendor at the phone number dialed (col. 3 lines 41-51; col. 5 lines 48-67).

Claims 11, 26, 41: Nel discloses causing one or more onscreen messages to be displayed that indicate actions being taken by the receiver (Abstract).

Claims 12, 27, 42: Nel does not explicitly disclose storing the confirmation number into a purchase history screen in the receiver that allows a customer to view the purchase

information. Nel does disclose confirmation of the selected instruction, data requested and account balances are visually displayed in real time on the monitor (col. 3 lines 52-57)

Claims 13, 28, 43: Nel does not explicitly disclose the vendor is a credit card company. However, Nel does disclose a system including:

- a computer network of at least one vendor (Abstract);
- Financial transactions could include banking transactions such as balance requests, funds transfer transactions, electronic account payment transactions and purchase transactions with vendors and/or service providers connected to the network (col. 1 lines 45-49);
- a system for performing a commercial transaction or function through a vendor network for accessing a product or service that may be held at a vendor database (fig. 5 [120, 122, 134, 135, 136]);
- Also linked to said computer network may include a financial institution 137 for example a bank and a service provider 138. Furthermore a storage device reader and/or writer for example a smart card reader 124 internally to the decoder (not shown) or externally connected via a communications port such as a RS232 port may allow for payment or uploading and downloading of funds onto a smart card. Of course the vendor and the financial institution may be the same institution. The second account may be held by a vendor or service provider or third party at the financial institution to allow bill payments or for real time accounting and payment of users selected products

of 15; services. The smart card may in conjunction with the PIN be used for user identification and the encryption and decryption communicated from the financial institution or vendor to the smart card and vice versa. (col. 6 lines 3-19).

Additionally, a smart card is disclosed by Nel in the above disclosure, which is "a type of credit card", as claimed by applicant. Therefore, the disclosure encompasses applicant's claimed inventive aspect of a vendor is a credit card company.

Claims 14, 29, 44: Nel discloses the receiver is an integrated receiver/ decoder (IRD) (fig. 1 [14])

Claims 15, 30, 45: Nel discloses the presentation device is a television (col. 5 lines 48-57).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 18 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nel (U.S. Patent No. 6,363,364).

Claims 3, 18, 33: Nel does not explicitly disclose the purchase information comprising a type of credit card; a credit card number; and an expiration date. However, Nel does disclose a smart card (a type of card that provides the functionality and characteristics of a credit card, and additionally other desirable characteristics/capabilities) (col. 4 line 59 – col. 5 line 43). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Nel to explicitly include a type of credit card; a credit card number; and an expiration date, as disclosed by Nel, for the motivation of making a purchase.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:

- Yamamoto et al. (U.S. Patent No. 6,166,778) which discloses relates to, in a broadcast receiving apparatus for receiving broadcast in multiple channels, controllability of setting of desired programs out of multiple programs being broadcast, and various manipulations and selections about such programs, inspection of the



charge amount situation, and prevention of wrong use about connection to a telephone circuit, and these manipulations are effected in an interactive manner with the screen display shown in appropriate display format, layout, shape and color, considering psychological effects, according to the natural flow of thought of general users who manipulate. More specifically, the menu panel showing manipulation items in layers is displayed characters and expression of proper size suited to the broadcast receiving apparatus, and the layer index is attached to the menu panel, so that the layer of the present manipulation may be known at a glance, and moreover in the program list display, an official program name display column is displayed in a predetermined specific position, outside of the program list display column, and the display state of this official program name display column is maintained if the picture is changed to the broadcast content briefing picture or reserve condition customize picture. In addition, the access to the modem or IC card is indicated by the indicator, and the charge amount detail can be known from the IC card.

- Muramatsu et al. (U.S. Patent Application Publication No. 2001/0014914) which discloses an information processing apparatus for processing information responsive to a broadcast program in a short duration of time.
- Ellis et al. (U.S. Patent No. 6275268) which discloses an electronic program schedule system with product ordering capability which includes a data processor for receiving program schedule information for a plurality of programs, and a user control apparatus, such as a remote controller, for generating user control commands and

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transmitting signals to the data processor in response thereto. The television program schedule information is displayed on a display apparatus such as a television receiver.

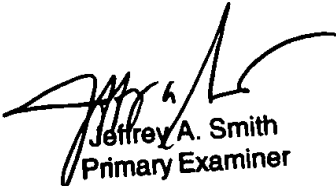
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

FT

November 24, 2003

  
Jeffrey A. Smith  
Primary Examiner